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OFFICE OF PETITIONS

In re Application of :
Tsai : DECISION ON PETITION
Application No. 09/853,720 :
Filed: May 14, 2001 :
Docket No.: FP7635 :

The above-identified application has been directed to the Office of Petitions for consideration of the petition to withdraw the holding of abandonment under 37 CFR 1.181.

This application was held abandoned September 11, 2001 for failure to timely submit a proper reply to the Notice to File Missing Parts (Notice), mailed July 10, 2001, which set a two month shortened statutory period of time for reply. Notice of Abandonment was mailed February 2, 2004.

Petitioner asserts non-receipt of the Notice mailed July 10, 2001.

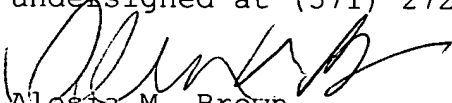
In the absence of any irregularity in the mailing of the Office communication, there is a strong presumption that the Office communication was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office communication was not in fact received. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See, MPEP 711.03(c). The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

Petitioner's arguments and supporting documentation have been carefully considered and support petitioner's conclusion that the Notice of July 10, 2001 was not received.

In view thereof the Notice of Abandonment mailed February 2, 2004 is hereby **VACATED** and the holding of abandonment is **WITHDRAWN**.

The application file is being forwarded to the Office of Patent Publication for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.



Alesia M. Brown
Petitions Attorney
Office of Petitions